



North Carolina Department of Health and Human Services
Division of Mental Health, Developmental Disabilities and Substance Abuse Services
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June 27, 2003

To: All Licensed and Unlicensed Community Mental Health, Developmental Disability and Substance Abuse Providers

From: Jeff Horton, Division of Facility Services, Mental Health Licensure and Certification Section
Peggy Balak, DMH/DD/SAS, Administrative Support/Division Affairs Team

Re: **Recodification (re-numbering) of Title 10 Rules, Changes to Existing Rules and New Rules Associated with Senate Bill 163**

The purpose of this memorandum is to inform *licensed and unlicensed* providers of mental health, developmental disability and substance abuse services (mh/dd/sas) of the following rule changes:

- (1) recent re-codification (re-numbering) of rules for licensure and client rights;
- (2) changes to existing rules; and
- (3) new rules concerning monitoring and oversight of licensed and unlicensed providers.

This memorandum is being sent to over 4000 providers. Area authorities or county programs should ensure that all providers in their catchment areas are made aware of this information.

1. Recodification (re-numbering) of Rules

Mental health, developmental disability and substance abuse providers must comply with certain licensure and client rights rules. Effective June 1, 2003, the rules were recodified (re-numbered). Following are the old titles/numbers and the new ones:

Licensure rules previously assigned to Title 10, Chapter 14, Subchapter V of the North Carolina Administrative Code (10 NCAC 14V, also known as APSM 30-1).	<i>Are now</i>	10A NCAC 27G
Client rights rules assigned to Title 10, Chapter 14, Subchapters P, Q, R and S of the North Carolina Administrative Code (10 NCAC 14P, Q, R and S, also known as APSM 95-1).	<i>Are now</i>	10A NCAC 27C, D, E and F.



The newly recodified (re-numbered) rules may be downloaded and printed free of charge via the Office of Administrative Hearings website: <http://ncrules.state.nc.us/ncadministrativ /default.htm>.

1. At the home page, click on “Title 10A – Health and Human Services”,
2. Click on “Chapter 27 – MENTAL HEALTH, COMMUNITY FACILITIES AND SERVICES”,
3. Click on Subchapter “G” for the licensing rules and on Subchapters C, D, E and F for the client rights rules.

Hard copies of the rules may be ordered for a fee from the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMHDDSAS) using the enclosed [form](#).

1. Changes to Existing Rules

In addition to recodifying (re-numbering) the rules, there were a few changes to existing rules. These are noted below:

- Death reporting was moved from 10 NCAC 14V .0800 to 10A NCAC 26C .0300;
- Waiver of licensure rules, previously under 10 NCAC 14V .0700 moved to 10A NCAC 27G .0800;
- 10 NCAC 14V .0203, Competencies of Qualified Professionals (QPs or Qs) and Associate Professionals (APs) moved to 10A NCAC 27G .0203. This rule states that there are no longer privileging requirements for Qualified Professionals and Associate Professionals. Providers must develop and implement policies for review of staff qualifications ensuring that QPs and APs demonstrate the knowledge, skills and abilities required by the population served. Compliance via monitoring is based on a determination of whether or not the facility has implemented its own written policy. The area authority or county program cannot dictate or require continuing the privileging or credentialing process.
- 10 NCAC 14V .0204, Competencies and Supervision of Paraprofessionals moved to 10A NCAC 27G .0204. This rule states that there are no privileging requirements for paraprofessionals. Providers must develop and implement policies for review of staff qualifications ensuring that paraprofessionals demonstrate the knowledge, skills and abilities required by the population served. Compliance via monitoring is based on a determination of whether or not the facility has implemented its own written policy. The area authority or county program cannot dictate or require continuing the privileging or credentialing process.
- 10 NCAC 14V .5600, Supervised Living moved to 10A NCAC 27G .5600. These rules were revised effective 4/1/2003 to limit the types of programs licensable under this category to .5600A, .5600B, .5600C, .5600D, .5600E and .5600F (.5600G was removed).
- In addition, under .5600F, there are now a number of rule exemptions from some of the requirements under Section .0200 - Operation and Management Rules - and under Section .0300 - Physical Plant Rules. Also under .5600F, this type of facility is now officially referred to as *assisted family living or alternative family living* (AFL). The term *AFL* had been used for some time, and it was felt that this change would provide clarity if referenced in rule.



- There are changes under client rights rules in 10A NCAC 27D .0101 (previously 14Q .0101) concerning requirements for client rights policies regarding restrictive interventions. The new requirements place emphasis on developing and implementing policies and procedures for restrictive interventions that focus on prevention and alternatives to restrictive interventions.
- There are changes under 10A NCAC 27E .0104 (previously 14R .0104) regarding the requirements for restrictive interventions. These changes coincide with the new policy requirements for restrictive interventions under 10A 27D .0101 mentioned above.

2. New Rules Associated with Senate Bill 163

On October 23, 2002, Senate Bill 163 was signed into law as Session Law 2002-164. Complete text of the bill may be viewed and printed from the following web site:

<http://www.ncga.state.nc.us/html2001/bills/AllVersions/Senate/S163vc.html>

In November 2002, various committees made up of providers, consumers, advocates and state officials were formed to develop rules in order to implement the bill. This included writing rules governing the oversight and monitoring of mh/dd/sas providers, summary suspension and revocation of authorization to receive public funding for the provision of mh/dd/sa services and communication of out of home community placement for children/adolescents. These rules are scheduled to go into effect July 1, 2003. Copies are attached for your reference. They are also available on the web at: <http://www.dhhs.state.nc.us/mhddsas/sb163/> Information aimed at assisting with implementation of these rules will be available there.

- 10A NCAC 26C .0500, Summary Suspension and Revocation sets forth rules governing summary suspension and revocation of the authorization to receive public funding for the provision of mental health, developmental disabilities and substance abuse services by the Division of MH/DD/SAS.
- 10A NCAC 27G .0506, Communication Procedure for Out of Home Community Placement addresses communication procedures concerning out of the home community placements for children and adolescents. Area authorities or county programs are required to meet with the parent(s) or legal guardian and other representatives involved in the care and treatment of the child or adolescent to develop service plan decisions. If an out of home community placement decision is made, the home community area authority or county program is responsible for notification of placement and completion of the Notification Form.
- 10A NCAC 27G .0600 – Area Authority of County Program Monitoring of Facilities and Services: One of the goals of Senate Bill 163 and the rules that were developed as a result of the bill was to provide area authority or county programs the authority to monitor and oversee mh/dd/sas services provided in their catchment area. We believe these rules achieve the intent of the bill, and as local and state agencies work together, they will improve monitoring and oversight of licensed and unlicensed mh/dd/sas providers. These rules are available on the web at: <http://www.dhhs.state.nc.us/mhddsas/sb163/>



- These rules focus on three (3) areas of responsibility for area authorities or county programs including:
 1. Area authorities or county programs shall attempt to mediate complaints for all mh/dd/sas provider types and are allowed to investigate complaints for Category A and Category B providers.
 2. Area authorities or county programs are required to receive and review Critical Incident Reports from Category A and Category B providers.
 3. Area authorities or county programs may conduct monitoring of providers for compliance with “Quality Indicators,” which are a limited set of licensure, client rights and confidentiality rules as defined in 10A NCAC 27G .0602(8) of the enclosed rules.

Providers are divided into four (4) categories, which are described as follows:

Category A - facilities licensed pursuant to G.S. 122C, Article 2, except for hospitals; these include 24-hour residential facilities, day treatment and outpatient services (facilities with license numbers MHL-XXX-XXX);

Category B - community based providers not requiring state licensure (unlicensed mh/dd/sas providers);

Category C - hospitals, state-operated facilities, nursing homes, adult care homes, family care homes, foster care homes or child care facilities; and

Category D - individuals providing only outpatient or day services who are licensed or certified to practice in the State of North Carolina.

PLEASE NOTE:

Under rule 10A NCAC 27G .0603, there are new requirements for Category A and Category B providers to report *critical incidents* [defined in 10A NCAC 27G .0602(3)] to the area authority or county program in whose catchment area the services are provided, whether the provider contracts with the area authority or county program or not. Current area programs are listed at the following web site: <http://www.dhhs.state.nc.us/mhddsas/dirbox.htm>

Critical incidents must be reported on a form provided by the Secretary. The form is enclosed with this memorandum and is titled, “[Critical Incident and Death Reporting Form.](#)” ([Instructions](#)) The incidents required to be reported are those defined in 10A NCAC 27G .0602(3).

As the name implies, the form may also be used to report deaths to the area authority or county program (required by the new rules) and may be used to report deaths to the Division of Facility Services as required by North Carolina General Statute 122C-31. All deaths are required to be reported to the area authority or county program, but the deaths required to be reported to the state are those that occur within seven (7) days of physical restraint or seclusion of the client, or those resulting from violence, accident, suicide or homicide.



The form may be downloaded from the Internet at the following web site:
<http://www.dhhs.state.nc.us/mhddsas/sb163/>

If there are questions concerning any aspect of this memorandum, please do not hesitate to contact Jeff Horton at (919) 855-3796 or Cindy Kornegay at (919) 733-7011.

Enclosures

